



Claire McCaskill

Missouri State Auditor

June 2006

Twenty-First Judicial Circuit

St. Louis County, Missouri



Office Of
Missouri State Auditor
Claire McCaskill

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The following findings were noted as a result of an audit conducted by our office of the Twenty-First Judicial Circuit, St. Louis County, Missouri.

During the years ended December 31, 2005 and 2004, the Circuit Clerk's office collected approximately \$85.5 million and \$82.9 million, respectively. We found numerous clerks in the Associate Criminal Department, Associate Civil Department, Circuit Criminal Department, and Circuit Civil Department can collect or receive checks and money orders. These monies are transmitted to other clerks for additional processing prior to being recorded and deposited by the Bookkeeping Department. Additionally, monies received by the various departments are not always transmitted/deposited intact or on a timely basis. Furthermore, the Circuit Clerk's office did not ensure that all Point of Sale system receipt slips are recorded and reconciled with receipts recorded in the Business Works system which is used to record all circuit transactions.

The Circuit Clerk's office does not generate or retain all necessary reports and has not established procedures to routinely follow-up on outstanding checks. At December 31, 2005, the Garnishment/Restitution Account had 376 checks totaling approximately \$67,000 which had been outstanding for over three years. The main Circuit Clerk's account had 43 checks totaling approximately \$11,200 which had been outstanding for the same time period.

The December 31, 2005 open items listing generated by the Circuit Clerk's office totaled over \$18.6 million. The Circuit Clerk's office has not adequately reviewed the status of old open items and is holding partial payments of court costs collected which were not applied or prorated. Additionally, the Circuit Court does not adequately follow-up on bonds posted by defendants who fail to make the required court appearances.

The Circuit Clerk's office currently generates an accrued court cost listing from two different systems. The November 14, 2005 Business Works system receivables listing totaled over \$2.2 million. The Circuit Clerk's office sends out one billing for court costs that have been delinquent for one month and gives a copy of the accrued court cost list to the Prosecuting Attorney's office at the end of the year. However, the Prosecuting Attorney's office indicated nothing is done with this list. In addition, appropriate follow-up action is not being taken in cases with accrued costs that are owed by individuals on probation.

Also included in the report are recommendations related to criminal cost billings, circuit clerk funds controls, family court controls and procedures, and computer recovery plans. The report also noted several significant control weaknesses in the probate division.

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YELLOW SHEET

TWENTY-FIRST JUDICIAL CIRCUIT
ST. LOUIS COUNTY, MISSOURI

TABLE OF CONTENTS

	<u>Page</u>
STATE AUDITOR'S REPORT	1-3
MANAGEMENT ADVISORY REPORT - STATE AUDITOR'S FINDINGS	4-23
<u>Number</u>	<u>Description</u>
1.	Probate Division Controls and Procedures5
2.	Circuit Clerk Receipt Controls and Procedures10
3.	Circuit Clerk Reconciliation and Collection Procedures13
4.	Collection of Accrued Costs17
5.	Criminal Cost Billings19
6.	Circuit Clerk Funds Controls20
7.	Family Court Controls and Procedures21
8.	Computer Recovery Plans.....22
HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION	24-29

STATE AUDITOR'S REPORT



CLAIRE C. McCASKILL
Missouri State Auditor

Presiding Judge and Court en banc
and
Director of Judicial Administration
Twenty-First Judicial Circuit
St. Louis County, Missouri

We have audited certain operations of the Twenty-First Judicial Circuit, St. Louis County, Missouri. The scope of this audit included, but was not necessarily limited to, the years ended December 31, 2005 and 2004. The objectives of this audit were to:

1. Review internal controls over significant financial functions.
2. Review compliance with certain legal provisions.

Our methodology to accomplish these objectives included reviewing written policies, financial records, and other pertinent documents; interviewing various personnel of the judicial circuit, as well as certain external parties; and testing selected transactions.

In addition, we obtained an understanding of internal controls significant to the audit objectives and considered whether specific controls have been properly designed and placed in operation. We also performed tests of certain controls to obtain evidence regarding the effectiveness of their design and operation. However, providing an opinion on internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We also obtained an understanding of legal provisions significant to the audit objectives, and we assessed the risk that illegal acts, including fraud, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting significant instances of noncompliance with the provisions. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances.

The accompanying History, Organization, and Statistical Information is presented for informational purposes. This information was obtained from the judicial circuit's management, the Office of State Courts Administrator, and St. Louis County and was not subjected to the procedures applied in the audit of the judicial circuit.

The accompanying Management Advisory Report presents our findings arising from our audit of the Twenty-First Judicial Circuit, St. Louis County, Missouri.

A handwritten signature in black ink, reading "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" written in a larger, more prominent script than the last name "McCaskill".

Claire McCaskill
State Auditor

January 25, 2006 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits:	Kenneth W. Kuster, CPA
Audit Manager:	Debra S. Lewis, CPA
In-Charge Auditor:	Julie Vollmer
Audit Staff:	Monique Williams, CPA
	Kate Petschonek
	Steven Re', CPA
	Zeb Tharp

MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

TWENTY-FIRST JUDICIAL CIRCUIT
ST. LOUIS COUNTY, MISSOURI
MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

1.	Probate Division Controls and Procedures
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Several weaknesses were noted with the Probate Division controls and procedures for receipts, expenditures, bank reconciliations, status of open items, record retention, accrued court costs, and collateral securities. The Probate Division converted to the Justice Information System (JIS) in July 2004. During the years ended December 31, 2005 and 2004, the Probate Division collected approximately \$893,900 and \$568,600, respectively.

A. The Probate Division controls and procedures for receipts need improvement. The following problems regarding receipts were noted:

1. A reconciliation between receipt slips issued and deposits was not performed, resulting in unexplained differences between the amounts recorded on the receipt slips and the deposit. Some of these differences could be caused by not depositing all monies intact. If the Probate Division reconciled the receipt slips issued and deposits on a timely basis, these differences could have been more easily resolved. Reconciliations of the receipt slips and deposit should be performed to ensure all monies received are deposited.
2. Receipts are not always deposited on a timely basis. Although deposits are generally prepared daily, some of the cashier sessions (which are opened for each clerk) are not closed when the deposit is prepared. According to the Probate Administrator, a cashier session would not be included in a deposit until the clerk closes the cashier session. We noted 9 cashier sessions that had not been closed timely, which resulted in these receipts being held for several days before being deposited. For example, one of these cashier sessions was not closed until 10 days after it was opened.

To adequately safeguard receipts and reduce the risk of loss, theft, or misuse of funds, deposits should be made daily or when accumulated receipts exceed \$100.

3. Receipt slips are not issued for checks received unless the amount is correct. The Probate Administrator indicated the checks are returned to the payor if amounts are incorrect; however, the Probate Division does not maintain documentation of the checks returned to the payor.

To ensure receipts are accounted for properly, receipt slips should be issued immediately upon receipt for all collections and the monies deposited into the Probate Division's bank account. If it is later determined that the amount of the check is incorrect, refund checks should be issued.

- B. During the two years ended December 31, 2005, the Probate Division transmitted law library receipts totaling \$50,910 to the county's General Revenue Fund instead of the Law Library Fund. Although the Law Library receipts are tracked separately by the Probate Division, these monies were incorrectly included with the county's General Revenue Fund receipts. Section 488.429, RSMo, requires that law library receipts be used for maintenance and upkeep of the law library or the family services and justice fund. The Probate Division should ensure all monies are transmitted to the appropriate fund, and work with the county to transfer all law library monies from the county's General Revenue Fund to the Law Library Fund.
- C. The bank reconciliations for July 2004 through September 2005 were not received by the Probate Division until November 2005. The Office of the State Court Administrator (OSCA) has been performing the bank reconciliations for the Probate Division since the conversion to the JIS. When the Probate Division received the bank reconciliations, these reconciliations included unidentified differences and reconciling items between the court's computer system balance and the reconciled bank balance. The December 31, 2005 bank reconciliation included twenty-eight unidentified differences and reconciling items which resulted in a net shortage (book balance exceeding bank balance) of approximately \$3,270. The shortage may be caused by adjusting entries that need to be recorded or a shortage of monies.

The preparation of bank reconciliations is necessary to ensure accounting records agree with bank records and errors are discovered on a timely basis. In addition, although the OSCA provides support to the various courts across the state, it is ultimately the Probate Division's responsibility to perform bank reconciliations timely and to ensure differences are resolved timely. Failure to resolve differences and reconciling items timely increases the risk that other errors or misstatements will not be detected on a timely basis.

- D. The Probate Division controls and procedures for open items need improvement. The following problems regarding open items were noted:
 - 1. The OSCA and the Probate Division have not prepared open items listings since the implementation of the JIS. Although open items listings can be generated from the JIS, these listings have not been generated. The open items listings can only be generated for the current date. At our request, the Probate Division attempted to generate an open items listing from the JIS for December 31, 2005. This open items listing appeared to be

inaccurate and did not agree with the JIS balance. With OSCA's assistance, the Probate Division was able to generate an open items listing on January 5, 2006, which agreed with the JIS book balance.

Monthly reconciliations of open items to the reconciled bank balance are necessary to ensure proper accountability over open cases and to ensure monies held in trust by the court are sufficient to meet liabilities. Although the OSCA provides support to various courts across the state, it is ultimately the Probate Division's responsibility to ensure open items listings are generated, reconciled, and reviewed for accuracy.

2. The Probate Division has not adequately reviewed the status of old open items. The December 31, 2005 open items listing generated by the Probate Division totaled over \$200,000 and included approximately 590 case entries. Several of the open items had receipt dates in July 2004 which was when the Probate Division converted to the JIS. Of the 31 cases reviewed, we found 26 closed cases had monies that should have been disbursed by refunding the monies to the defendant or by applying the charges to the case.

Old inactive case balances increase the volume of cases which must be monitored and controlled, putting a greater burden on limited personnel resources.

3. The Probate Division did not retain any documentation to support how the open items amounts were determined for the conversion to the JIS. Although the Probate Administrator indicated this documentation was provided to the OSCA, neither the Probate Division nor the OSCA retained a copy. Without adequate documentation, there is no assurance the open items established during the conversion to JIS are accurate.

Retention of records is necessary to ensure the validity of transactions and provide an audit trail to account for monies received. Section 109.270, RSMo, also provides that all records made or received by an official in the course of their public duties are public property and are not to be disposed of except as provided by law.

- E. Procedures to monitor and collect accrued court costs could be improved. Although the JIS maintains a listing of cases with unpaid amounts, the Probate division has not generated this report. In addition, the Probate Division does not have any procedures to follow-up on the collection of these monies. The December 17, 2005 receivables listing totaled over \$55,000.

Although recent legislation has increased the court's abilities to collect debts owed the court, the Probate Division does not participate in any of these options:

- Section 488.5028, RSMo, gives courts the right to report debts in excess of twenty-five dollars to the OSCA and request they seek a setoff of an income tax refund.
- Section 488.5030, RSMo, gives courts the prospect of contracting with a collection agency to pursue past-due court-ordered court costs. The statute also allows any fees or cost associated with such collection efforts be added to the amount due, but such fees and costs shall not exceed twenty percent of the amount collected.

The division could also consider reporting the unpaid debt to one of the three main credit reporting bureaus. Without the active and timely pursuit of unpaid fees and costs, revenues to the state and county could be lost.

- F. The Probate Division has not established procedures to monitor collateral securities for the Probate bank account, resulting in funds being under secured for approximately two weeks during December 2005. The Probate Division's funds on deposit exceeded the Federal Deposit Insurance Corporation (FDIC) coverage by approximately \$99,000 on December 31, 2005. No collateral securities were pledged by the depository bank to cover the monies in excess of the FDIC coverage.

Section 110.020, RSMo, provides the value of the securities pledged shall at all times be not less than 100 percent of the actual amount on deposit less the amount insured by the FDIC. Inadequate collateral securities leave funds unsecured and subject to loss in the event of a bank failure.

WE RECOMMEND the Probate Division:

- A.1. Reconcile receipt slips issued to amounts deposited.
 2. Deposit all monies intact daily.
 3. Issue receipt slips immediately upon receipt and deposit all receipts in the bank account. Furthermore, any refunds needed should be made by check.
- B. Ensure monies are transmitted to the appropriate fund. In addition, the Probate Division should request the appropriated law library monies be transferred from the county's General Revenue Fund to the Law Library Fund.
- C. Ensure bank reconciliations are prepared monthly. If differences are included on the monthly bank reconciliations, the Probate Division should resolve these differences in a timely manner.

- D.1. Reconcile the open items listing to the reconciled bank balance monthly.
- 2. Review the older open items and determine the appropriate disposition of funds being held on closed cases.
- 3. Retain records to provide assurance that all transactions are valid and proper.
- E. Establish more formal and consistent procedures for pursuing amounts due the court and/or assessing the likelihood of their collection.
- F. Ensure adequate collateral securities are pledged for all funds on deposit in excess of FDIC coverage.

AUDITEE'S RESPONSE

The Probate Judge responded:

- A.1. *All receipt slips and deposits are now reconciled daily.*
- 2. *Cashier sessions are closed at the end of each business day and receipts are given to our finance department for deposit on the next business day.*
- 3. *Deposit slips are issued for all checks received whether the amount is correct or not. The monies are deposited into the court's bank account. If the situation requires a refund of any of the money, we issue a refund check.*
- B. *Up until September 2004, the court was not collecting the Law Library Surcharge. Immediately after notification that we were incorrectly depositing the Law Library funds, we requested a check in the amount of \$50,910 from the St. Louis County Treasurer out of the General Revenue Fund payable to the Law Library Fund.*

Any monies received from this surcharge are now being paid out to the St. Louis County Law Library Fund.

- C. *Starting with the January 2006 bank statement, the court is now doing the bank reconciliations.*

The twenty-eight unidentified differences and reconciling items have been corrected. It required voiding receipts and retaking them due to wrong coding.

- D.1. *Starting in January 2006, we are now running the Open Items Report after all cashier sessions have been closed and the report posting everything to the general ledger (CAPCFED) has been ran. Monthly reconciliations of open items to the reconciled bank balance are now being performed.*

2. *As of March 31, 2006, all approximately 590 old open items have been reviewed and resolved.*
 3. *For whatever reason the supporting documentation of open item amounts for conversion to JIS was not retained. The court retains all documents pursuant to Section 109.270, RSMo, until the expiration of the retention period and then we follow procedures to obtain an Order of Destruction for such records.*
- E. *The court is in the process of establishing internal procedures for monitoring and collection of accrued costs.*
- We have submitted the necessary forms to begin participation in the tax offset program pursuant to Section 488.5028, RSMo.*
- We are talking to the Office of State Court Administrator about the procedures to participate in the state's debt collection program pursuant to Section 488.5030, RSMo.*
- F. *On January 24, 2006, First National Bank of St. Louis, our banking facility, pledged a FNMA Bond for \$200,000 with Central Bank. On February 8, 2006, First National Bank adopted a Certificate of Resolution setting up the court as a Public Funds depositor.*

The resolution authorizes any Senior Vice President or above to enter into Depositary Agreements to affect the pledge of securities to secure all deposits in excess of the limit of insurance afforded by the Federal Deposit Insurance Corporation.

2.	Circuit Clerk Receipt Controls and Procedures
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During the years ended December 31, 2005 and 2004, the Circuit Clerk's office collected approximately \$85.5 million and \$82.9 million, respectively. The Circuit Clerk's office controls and procedures for receipts need improvement. The following problems regarding receipts were noted:

- A. Numerous clerks in the Associate Criminal Department, Associate Civil Department, Circuit Criminal Department, and Circuit Civil Department can collect or receive checks and money orders. These monies are transmitted to other clerks for additional processing prior to being recorded and deposited by the Bookkeeping Department. To safeguard monies from theft, loss or misuse, the number of employees who receive and handle monies should be limited to the extent possible.
- B. The checks and money orders received by the various departments are not recorded when received. These receipts are eventually turned over to the Bookkeeping Department to record the receipt and prepare the deposit.

- The Circuit Civil Department receives checks for court costs and filing fees which are only recorded in each case's docket. No receipt slips are issued or recordings made to a log for these collections, except for monies received at the Family Court Building.
- The Associate Civil Department receives checks for certified copies which are only recorded in each case's docket. These collections are not recorded on a receipt slip or log by the clerk who initially receives the checks.
- The Associate Criminal Department receives checks for court costs which are not recorded on a receipt slip or log, except for appearance bonds and certified cases. The Associate Criminal Department only locates the case files, attaches the payment to the file, and forwards the file to the Bookkeeping Department.
- The Circuit Criminal Department receives checks for court costs from the Associate Criminal Department. The Circuit Criminal Department only locates the case file, attaches the payment to the file, and forwards the file to the Bookkeeping Department.
- Checks placed in the first floor drop box or received in the fifth floor mail room are taken to the appropriate court department without being recorded on a receipt slip or log.

To help ensure receipts are properly recorded and deposited, checks and money orders should be recorded on either prenumbered receipt slips or a log immediately upon receipt.

C. Monies received by the various departments are not always transmitted/deposited intact or on a timely basis.

- The Circuit Civil Department at the Family Court Building receives cash, checks, and money orders for court costs. These monies are not transmitted intact or on a timely basis. Checks and money orders are transmitted to the Bookkeeping Department approximately once a week. Since only a small amount of cash is apparently received, the monies are only transmitted to the Bookkeeping Department for deposit approximately once a month.
- The Associate Civil Department receives checks and money orders for certified copies. These monies were transmitted to the Bookkeeping Department for deposit approximately once a week and averaged about \$700.

- The Associate Criminal Department receives checks and money orders for certified copies. These monies were transmitted to the Bookkeeping Department for deposit approximately twice a month and average about \$2,500.

To adequately safeguard receipts and reduce the risk of loss or misuse of collections, transmittals should be made intact daily or when accumulated receipts exceed \$100.

- D. The Circuit Clerk's office did not ensure that all Point of Sale (POS) system receipt slips (issued for cash, credit card receipts, and checks when a receipt slip is requested) are recorded and reconciled with the Business Works system which is used to record all circuit transactions. While the Bookkeeping Department records monies in the POS system without a case number, checks and money orders are not recorded in the Business Works system or deposited until a case number has been determined. The POS system receipt slips for checks and money orders which have been withheld from the deposit are not reconciled to the Business Works system to ensure all receipts are posted to that system and deposited.

To adequately account for monies, POS receipt slips should be reconciled to the Business Works system.

WE RECOMMEND the Circuit Clerk:

- A. Limit the number of employees who can receive or handle monies prior to recording and depositing funds.
- B. Ensure all checks and money orders received are immediately recorded on a prenumbered receipt slip or collections log.
- C. Transmit receipts intact daily or when accumulated receipts exceed \$100.
- D. Reconcile POS receipt slips to the Business Works system.

AUDITEE'S RESPONSE

The Circuit Clerk's Office responded:

- A. *We agree and upon implementation of the new statewide court case management system, known as JIS, the number of employees who receive and handle monies will be limited.*
- B. *We agree and upon implementation of the new statewide court case management system, known as JIS, the number of employees who receive and handle monies will be limited.*

- C. *The Circuit Civil Department at the Family Court Building has implemented a new procedure whereby checks, money orders and cash are transmitted to the Bookkeeping Department for deposit on a daily basis.*

The Associate Civil Department has implemented a new procedure whereby checks and money orders for certified copies are transmitted to the Bookkeeping Department for deposit on a daily basis or when the amount exceeds \$100.

The Associate Criminal Department has implemented a new procedure whereby checks and money orders are transmitted to the Bookkeeping Department for deposit on a daily basis or when the amount exceeds \$100.

- D. *POS check receipt balancing to Business Works has been completed. All checks receipted through the POS System are handled through the same procedure as cash or credit cards.*

3. Circuit Clerk Reconciliation and Collection Procedures
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Several weaknesses were noted with the Circuit Clerk reconciliation controls and procedures including record retention of reconciliation reports, outstanding checks, and open items.

- A. The Circuit Clerk's office does not generate or retain all necessary reports. The open items listing from the Business Works system is not generated and the Garnishment/Restitution account outstanding check list is not retained. The open items listings and outstanding check list can only be generated for the current date.

Monthly reconciliations of open items to the liabilities are necessary to ensure proper accountability over open cases and to ensure monies held in trust by the court are sufficient to meet liabilities. In addition, retention of records is necessary to ensure the validity of transactions and provide an audit trail and account for all monies received. Section 109.270, RSMo, also provides that all records made or received by an official in the course of their public duties are public property and are not to be disposed of except as provided by law.

- B. The Circuit Clerk has not established procedures to routinely follow-up on outstanding checks. At December 31, 2005, the Garnishment/Restitution Account had 376 checks totaling approximately \$67,000 which had been outstanding for over three years. At December 31, 2005, the main Circuit Clerk's account had 43 checks totaling approximately \$11,200 which had been outstanding for over three years.

Procedures should be established to routinely investigate any checks remaining outstanding over a specified period of time. Old outstanding checks should be

voided and reissued to those payees who can be readily located. If payees cannot be located, the amount should be disbursed in accordance with Sections 447.500 through 447.595, RSMo, or other applicable statutes that allow for the disposition of unclaimed monies.

C. The Circuit Clerk's office controls and procedures for open items need improvement. The December 31, 2005 open items listing generated by the Circuit Clerk's office totaled over \$18.6 million. The following concerns regarding open items were noted:

1. The Circuit Clerk's office has not adequately reviewed the status of old open items. During our review, we found 14 cases with monies that should have been disbursed. These cases were shown as closed or have not had any activity for several years. These monies either need to be refunded to the defendants or charges applied to the cases.
2. The Circuit Clerk's office is holding partial payments of court costs collected which were not applied or prorated. During our review, we found 10 cases for which partial payments had been received, with some dating back to 2003. The Crime Victim's Compensation fee is the only payment applied when a portion of the amount due is collected. If it appears unlikely the remaining amounts owed will be collected, a court order should be obtained to allow the balance to be prorated among the various costs.

Attorney General Opinion No. 26, 1973 to Osborne, concluded that "If, when liability has been established, accrued costs cannot be collected in full, charges not having any statutory priority or not allocated under court rule should be prorated."

3. The Circuit Court does not adequately follow-up on bonds posted by defendants who fail to make the required court appearances. During our review of case files, we noted several instances where a bond was not forfeited when the defendant failed to appear on the court date. While we did not quantify the number of cases in which bond forfeitures were not made, the court does not have adequate procedures in place to require bond forfeitures. Based on our discussions with court personnel, the Circuit Clerk's office relies on the Prosecuting Attorney's Office to begin bond forfeiture procedures. However, the Prosecuting Attorney's Office indicated they rely on the Circuit Clerk's office to notify them of bonds that could possibly be forfeited.

Section 544.665, RSMo, provides that failure to appear results in forfeiture of any security which was given or pledged for a persons release. Bond forfeiture monies are to be distributed to the various school districts in the county according to Section 166.131, RSMo. The court's

bond forfeiture procedures need to be improved to ensure the timely distribution of bond proceeds.

Old inactive case balances increase the volume of cases which must be monitored and controlled, putting a greater burden on limited personnel resources. For such cases, the Circuit Clerk's office should take necessary actions to close these cases and ensure all balances in the case are disbursed to the applicable individual or disposed of in accordance with state law.

WE RECOMMEND the Circuit Clerk:

- A. Reconcile the open items listing to the bank balance monthly. In addition, the Circuit Clerk should retain records to provide assurance that all transactions are valid and proper.
- B. Establish procedures to routinely follow-up on old outstanding checks.
- C.1. Periodically review the status of open items and determine the appropriate disposition of funds being held on closed cases.
 - 2. Pursue collection of costs accrued on old cases. If collection of such costs cannot be made, monies held by the court should be distributed on a pro-rata basis, after obtaining a court order.
 - 3. Work with the Prosecuting Attorney to implement adequate procedures to forfeit bonds when appropriate.

AUDITEE'S RESPONSE

The Circuit Clerk's Office responded:

A. *Business Works Accounting System*

The Accounting Department has always balanced total open items to our total outstanding bank deposits. We did not print the open items list due to the size of the file (1800 Pages). We would print the last page of the report and file it with the financial reports. It was suggested by your office that we could print the report quarterly. The December 31, 2005 report printed during audit and March 31, 2006 report printed balanced and boxed for storage at warehouse.

Garnishment and Restitution

The garnishment open item list also required a lot of space to store paper reports. We were only saving the current six months of the report. The Garnishment Reconciliation Clerk will keep current six months of the open items reports on hand and box and store all remaining reports at the warehouse.

- B. Garnishment Account - All checks 3 years old or older as of December 31, 2005, have been reissued or transmitted to the state's unclaimed property section.

Registry Account - Business Works – All checks 3 years old or older as December 31, 2005, have been reissued or transmitted to the state's unclaimed property section.

County Production Account - All checks 3 years old were transferred to the state's unclaimed property section on March 9, 2006.

The Accounting Department has added an outstanding letter notification for Garnishment and Business Works to notify payees of outstanding checks. These letters will be sent before the stale dated checks are transferred to the state's unclaimed property section.

- C.1. The Accounting Department has a report in Business Works which will list each deposit by the posting date. We will review the report for closed cases with outstanding balances, such as TRO Bonds, Criminal Bonds, or cases that should have been closed and not forwarded to taxing for refund of cost deposits.

Our system does not have the capability of prorating outstanding charges on an automated basis. Our procedure would be to complete a manual disbursement of costs on a prorated basis when cases are reviewed for unclaimed property.

The state's JIS System will prorate charges automatically and we will be converting in 2007 which will correct this problem.

2. Currently, garnishment open items held are being disposed of with court orders to parties in the case or to Unclaimed Property.

Criminal cases are the majority of the cases with outstanding balances and open bills. The Accounting Department reviews the open report and applies funds to fully paid Crime Victims charges. Probation and Parole require the defendant to pay Crime Victims fees first and the remaining court costs later. The department will complete a prorating of costs on criminal cash bonds if the case has been closed for one year. The cost will be deducted from the bond and the remaining funds transmitted to Unclaimed Property.

Cases with partial payments of cost will be prorated when the case is reviewed for transfer to Unclaimed Property.

The Accounting Department has been working on closing out old cases held in the County Production System Account. In January 2006, a full-time employee was assigned to review and close these cases. For 2005 and 2006, \$561,945 and \$738,332, respectively, was transmitted to Unclaimed Property. Prorating of costs for 2006 has totaled \$69,904.

Along with the full-time employee working on this project, the taxing department, bookkeeping department, Assistant Accounting Manager, and Manager are working on this project as time permits. The goal is to clean up all old cases by December 2006.

3. *The Accounting Department processes forfeited bonds when received from court divisions and traffic department. Funds are processed and disbursed to St. Louis County Treasurer for deposit in the school fund. In addition, we are currently working with our computer company to generate a monthly report for the Prosecuting Attorney's Office listing all criminal cases in warrant status where a bond has been filed, but no forfeiture has been declared. This report will allow the Prosecuting Attorney's Office to know which cases they need to pursue a filing of a bond forfeiture.*

4. Collection of Accrued Costs

Several weaknesses were noted with the Circuit Clerk accrued cost controls and procedures.

- A. Procedures to monitor and collect accrued court costs could be improved. The Circuit Clerk's office generates an accrued court cost list from both the County Production and Business Works systems. Although the Circuit Clerk's office is currently using the Business Works system, the accrued court costs from the County Production system have not been converted to the Business Works system. The County Production system receivables listing consisted of 401 pages and did not indicate a total amount due to the court. The November 14, 2005 Business Works system receivables listing totaled over \$2.2 million.

The Circuit Clerk's office sends out one billing for court costs that have been delinquent for one month. At the end of the year, the Circuit Clerk's office also gives a copy of the accrued court cost list to the Prosecuting Attorney's office. However, the Prosecuting Attorney's office indicated nothing is done with the accrued court cost list.

Although the Circuit Clerk's office does utilize show cause orders and issue warrants for failure to appear for Associate Criminal Department cases, these procedures are applied early in the case process and minimal future efforts are made to collect amounts due the Circuit Clerk's office if these procedures are not successful.

Although recent legislation has increased the court's opportunities to collect debts owed for court cases, the Circuit Clerk's office does not participate in any of these options.

- Section 488.5028, RSMo, gives courts the right to report debts in excess of twenty-five dollars to the OSCA's and request they seek a setoff of an income tax refund.

- Section 488.5030, RSMo, gives courts the prospect of contracting with a collection agency to pursue past-due court-ordered penalties, fines, restitution, sanctions, and court costs. The statute also allows any fees or costs associated with such collection efforts be added to the amount due, but such fees and costs shall not exceed twenty percent of the amount collected.
- Section 302.341, RSMo, gives courts the authority to forward suspension information to the Missouri Department of Revenue (DOR) for any court cases where the defendant, a Missouri resident, failed to appear or failed to pay the fines and costs assessed for moving violations. Also, Section 544.046, RSMo, allows courts to file a nonresident violator suspension form for non-Missouri residents that will suspend the defendant's drivers license.

The Circuit Clerk's office could also consider reporting the unpaid debt to one of the three main credit reporting bureaus. Without the active and timely pursuit of unpaid fines and costs, revenues to the state and county could be lost.

- B. Appropriate follow-up action is not being taken on cases with accrued costs that are owed by individuals on probation. The Circuit Clerk's office notifies Probation and Parole of the accrued costs on these cases. The Circuit Clerk indicated that she expects Probation and Parole to monitor the payment of court costs and notify the Circuit Judges of accrued costs. We noted cases where individuals were released from Probation and Parole although there were still accrued costs.

Accrued costs could remain uncollected because of inadequate monitoring procedures which might eventually result in lost revenue. To facilitate the collection of accrued costs, information regarding cases with delinquent payments and significant balances due should be provided to the Circuit Judges for review and assessment of the need for further collection efforts or other judicial action which may be necessary.

WE RECOMMEND the Circuit Clerk:

- A. Establish more formal and consistent procedures for pursuing amounts due the court and/or assessing the likelihood of their collection.
- B. Work with the Circuit Judges and Probation and Parole to establish adequate procedures to monitor and collect accrued costs. Procedures should include generating periodic reports of cases with delinquent payments and/or significant balances due for the Circuit Judges' review.

AUDITEE'S RESPONSE

The Circuit Clerk's Office responded:

- A. We agree and six months after implementation of the new statewide court case management system, known as JIS, the Circuit Clerk's Office will participate in the tax intercept program and will pursue participation in the Missouri Court Debt Collection Program.*
- B. We agree and after implementation of the new statewide court case management system (JIS), we will prepare and generate periodic reports of criminal cases with delinquent payments and/or significant balances and distribute these reports to the Judges and to the State Board of Probation and Parole.*

5. Criminal Cost Billings

The Circuit Clerk's office does not have adequate procedures to ensure criminal cost billings are accurately prepared. The Circuit Clerk's office prepares and submits billings for incarceration costs utilizing the Sheriff's certification of the number of days incarcerated.

- We noted three instances where incarceration costs, totaling approximately \$3,100, were not billed to the state. Because these cases did not exceed the two-year limit for billing the state, the Circuit Clerk's office was still able to fully bill these costs.
- We noted two instances where incarceration costs, totaling approximately \$8,080, were overbilled to the state. The overbilling resulted from some days being billed twice for the same defendant. Because the state may have corrected the number of days billed, the incarceration costs received may have been correct. The Circuit Clerk's office did not have documentation of the number of days billed being adjusted on these criminal cost billings.

The Circuit Clerk's office needs to develop procedures to ensure criminal cost billings are accurately prepared. Section 221.105, RSMo, allows the state to reimburse certain court and incarceration costs for criminal cases when the state has been rendered liable. The state is rendered liable for criminal costs when a defendant is sentenced to imprisonment in the Department of Corrections. Section 33.120, RSMo, requires all such bills to be submitted to the state's Office of Administration within two years of the date of judgment and sentence. By not billing these costs as soon as it is allowable by law, the county, in some instances, is without revenue they are entitled to for periods sometimes exceeding two years.

WE RECOMMEND the Circuit Clerk develop procedures to ensure all criminal costs are accurately billed to the state.

AUDITEE'S RESPONSE

The Circuit Clerk's Office responded:

Currently, the Accounting Department has a stand-alone system which receives monthly downloads of criminal cases requiring State Bills. The jail time amounts are supplied manually by the Department of Justice Services for the same monthly time frame of the download.

The Circuit Clerk's Office receives from Justice Service's jail time for each defendant. If a defendant has three cases, total jail time will be reported on each case, it will be necessary to eliminate duplicate jail time from two of the cases. The stand alone system has a program which will list out duplicate jail time on multi cases. The duplicate jail time errors occur when defendants are sentenced in different reporting periods or in multi probation revocations. The CMS Criminal System also has to have the defendant sentenced to Missouri Department of Corrections and court clerks put Justice Services or just sentenced and defendant to pay cost.

The Criminal Billing Department will review case files for previous billed cases to eliminate duplicate billing and review CMS-Criminal for all Justice Services Officer Returns in which a download case was not found. The applicable state department will still have to catch some of the duplicates that our office submits to the state.

Management staff from the Circuit Clerk's Office, will discuss with the Department of Justice Services options for determining a method for marking jail time billed in the Justice Services system and only report unbilled jail dates to the Circuit Clerk's Office.

6. Circuit Clerk Funds Controls
--

The Circuit Clerk's office controls and procedures for the Drug Court Fund and Circuit Clerk Interest Fund need improvement. The following issues regarding these funds were noted:

- A. A log is not maintained for gift cards that have been purchased with the Drug Court Fund. The Drug Court Administrator maintains the inventory of gift cards. The judge gives the gift cards to defendants as they advance in the drug court program.

To properly account for all gift cards at any given time, a properly documented log for each type of gift card should be maintained which includes the number of gift cards purchased, documentation of gift card issuances by the judge, and the number of gift cards remaining.

- B. The Circuit Clerk's office did not retain adequate supporting documentation for some expenditures from the Circuit Clerk's Interest Fund. We noted several expenditures that were paid from a summary statement rather than a detailed invoice. At our request, the Circuit Clerk's office was able to obtain the detailed

invoices. To ensure the validity and propriety of expenditures, adequate supporting documentation should be obtained and retained for all payments to vendors.

WE RECOMMEND the Circuit Clerk:

- A. Along with Director of Judicial Administration, ensure a gift card log is maintained to properly document the usage of gift cards.
- B. Maintain adequate supporting documentation for expenditures.

AUDITEE'S RESPONSE

- A. *The Director of Judicial Administration responded:*

Drug Court now maintains a log for gift cards that have been purchased with Drug Court Funds. The defendants name is recorded with the date and the type of gift card that is received. The log is kept by the Drug Court Administrator.

- B. *The Circuit Clerk's Office responded:*

We agree and have implemented better systems for providing supporting documentation for expenditures from the Circuit Clerk's Interest Fund. We are now printing e-mail requests for book orders, paying from original invoices, and maintaining packing slips to show that the merchandise was received.

7. Family Court Controls and Procedures
--

Several weaknesses were noted with the Family Court controls and procedures for receipts. The Family Court collects monies for informal assessments, restitution, program fees, board billings, and donations. During the years ended December 31, 2005 and 2004, the Family Court collected approximately \$169,500 and \$171,000, respectively.

- A. Numerous Family Court employees can collect cash, checks, and money orders. These monies are transmitted to the Family Court Accounting Manager to be recorded and deposited. To safeguard monies from theft, loss, or misuse, the number of employees who receive and handle monies should be limited to the extent possible.
- B. The monies received by the South County, West County, and two Central County offices are not recorded on a prenumbered receipt slip. The same unnumbered forms are used to record both monies received and charges assessed on cases. These forms and monies are eventually turned over to the Family Court Accounting Manager to record the receipt and prepare the deposit.

To help ensure receipts are properly recorded and deposited, monies should be recorded on prenumbered receipt slips immediately upon receipt.

- C. A reconciliation between receipt slips issued by the North County office and transmittals to the Family Court Accounting Manager was not performed. Reconciliations of the receipt slips issued and deposits should be performed to ensure all monies received are transmitted and deposited.

WE RECOMMEND the Family Court Administrator:

- A. Limit the number of employees who can receive and handle monies.
- B. Ensure all monies received are immediately recorded on a prenumbered receipt slip.
- C. Reconcile receipt slips issued to amounts transmitted and deposited.

AUDITEE'S RESPONSE

The Director of Operations responded:

- A. *The Family Court will investigate ways of reducing the number of employees working with cash as well as reducing the number of clients using cash as a method of payment.*
- B. *The Family Court will require that employees complete a pre-numbered receipt slip for each payment transaction. Additionally, restitution payments forwarded to the Business Office will include a contract referencing the total amount of restitution due.*
- C. *The Family Court will require that receipt slips issued by outlying offices are reconciled to amounts transmitted to the Business Office.*

8. Computer Recovery Plans

The court does not maintain a formal written disaster recovery plan to be used in the event of a fire or some other type of disaster. The Circuit Clerk's office and Family Court rely heavily on computer systems for various applications. Significant interruption in the systems' operations could slow or stop specific functions resulting in confusion and delays.

A formal disaster recovery plan should specify recovery actions required to reestablish critical computer operations. In the case of a disaster, such documentation can reduce confusion and provide a framework for the uninterrupted continuance of operations. Once a disaster recovery plan has been developed and approved, it should be periodically tested and reviewed.

WE RECOMMEND the Director of Judicial Administration ensure a formal written disaster recovery plan is developed and periodically tested and reevaluated.

AUDITEE'S RESPONSE

The Director of Judicial Administration indicated a formal Disaster Recovery Plan for the Circuit Court was established on April 7, 2006.

HISTORY, ORGANIZATION, AND
STATISTICAL INFORMATION

TWENTY-FIRST JUDICIAL CIRCUIT
ST. LOUIS COUNTY, MISSOURI
HISTORY, ORGANIZATION, AND
STATISTICAL INFORMATION

Organization

The Twenty-First Judicial Circuit includes only St. Louis County.

The Twenty-First Judicial Circuit consists of twenty circuit judges, thirteen associate circuit judges, four family court commissioners, two traffic commissioners, one probate commissioner, and one probate deputy commissioner. The circuit judges appoint a Director of Judicial Administration for a four-year term. The judges by secret ballot elect one of the circuit judges to be the Presiding Judge for a two-year term. The Presiding Judge appoints two of the circuit judges to be the Probate Judge and Family Court Administrative Judge.

All of the Twenty-First Judicial Circuit divisions determine court policies. A majority of judges promulgate court rules. The Presiding Judge has supervision of general administrative matters related to the court.

The Director of Judicial Administration appoints and supervises the Circuit Clerk and Sheriff. The Circuit Clerk is responsible for the clerical operations, administration, and collection and disbursement of monies for the Circuit and Associate Divisions. Because the Sheriff does not collect court monies, this audit report does not include the Sheriff. The Director of Judicial Administration also oversees the Administration Department which includes the drug court, information technology, and jury.

The Probate Judge is responsible for the administration of the Probate Division. The Probate Judge appoints and supervises a Probate Administrator, who is responsible for the clerical operations and collection and disbursement of monies for the Probate Division.

The Family Court Administrative Judge is responsible for administration of the Family Court Division. The Family Court Administrative Judge appoints a Family Court Administrator, who is responsible for the collection and disbursement of judgments and restitution for the Family Court Division and also is responsible for the disbursements of the Family Services and Justice Fund and Victims Funds. The St. Louis County Treasurer is the custodian of these funds. The Family Court Division operates a detention center.

The St. Louis County Treasurer has been appointed as custodian for the Law Library Fund. A Law Library Board is appointed by all of the Twenty-First Judicial Circuit divisions and the St. Louis County Bar Association. The Law Library Board administers the operation of the library.

Operating Costs

The operating expenses of the various courts, Family Court Division, and judicial administration are paid by St. Louis County.

The court personnel salaries are paid by the state of Missouri. The Family Court Division salaries, judicial administration, juvenile officers, and bailiffs are paid by St. Louis County.

Receipts

Receipts of the Twenty-First Judicial Circuit, St. Louis County, were as follows:

		Year Ended December 31,	
		2005	2004
Court deposits, fees, bonds, and other	\$	87,048,999	84,315,348
Interest income		366,743	167,935
Total	\$	<u>87,415,742</u>	<u>84,483,283</u>

Caseload and Time Standards Statistics

From the Office of State Courts Administrator Missouri Judicial Reports, caseload statistics of the filings and dispositions of the Twenty-First Judicial Circuit, St. Louis County, were as follows:

		Year Ended June 30,			
		2005		2004	
		Filings	Dispositions	Filings	Dispositions
Civil		60,069	60,256	57,652	59,600
Criminal		29,845	29,796	30,134	28,571
Juvenile		7,027	7,166	6,920	7,105
Probate		1,692	1,426	1,868	1,902
Total		<u>98,633</u>	<u>98,644</u>	<u>96,574</u>	<u>97,178</u>

From the Office of State Courts Administrator Missouri Judicial Report for fiscal year 2005, statistics on the compliance of the Twenty-First Judicial Circuit, St. Louis County, with time standards for disposition of certain types of cases were as follows:

Type of Case	Time Standard	Twenty-First Judicial Circuit St. Louis County, Missouri		State Total	
Circuit Civil	90 % in 18 months		90 %		78 %
	98 % in 24 months		96		86
Domestic Relations	90 % in 8 months		85		85
	98 % in 12 months		95		91
Associate Civil	90 % in 6 months		85		86
	98 % in 12 months		97		96
Circuit Felony	90 % in 8 months		83		81
	98 % in 12 months		91		90
Associate Criminal	90 % in 4 months		66		72
	98 % in 6 months		80		85

Personnel

At December 31, 2005, the judges, commissioners, and other key court personnel of the Twenty-First Judicial Circuit, St. Louis County, were as follows:

Circuit Court Judges:

Robert S. Cohen, Division One
Maura B. McShane, Division Two
Mark D. Seigel, Division Three
Bernhardt C. Drumm, Jr., Division Four (Probate Judge)
John F. Kintz, Division Five
Gary M. Gaertner, Jr., Division Six
Carolyn C. Whittington, Division Seven (Presiding Judge)
Tom W. DePriest, Jr., Division Eight (Family Court Administrative Judge)
David Lee Vincent, III, Division Nine
Michael T. Jamison, Division Ten *
Emmett M. O'Brien, Division Eleven
Steven H. Goldman, Division Twelve
Barbara W. Wallace, Division Thirteen
James R. Hartenbach, Division Fourteen
John A. Ross, Division Fifteen
Michael Burton, Division Sixteen
Larry L. Kendrick, Division Seventeen
Richard C. Bresnahan, Division Eighteen
Melvyn W. Wiesman, Division Nineteen
Colleen Dolan, Division Twenty

Associate Circuit Judges:

Barbara Ann Crancer, Division Thirty-One
Mary Bruntrager Schroeder, Division Thirty-Two
Brenda Stith Loftin, Division Thirty-Three
Dale Hood, Division Thirty-Four **
Thea A. Sherry, Division Thirty-Five
Gloria Clark Reno, Division Thirty-Six
John R. Essner, Division Thirty-Seven
Ellen Levy Siwak, Division Thirty-Eight
Patrick Clifford, Division Thirty-Nine
Dennis N. Smith, Division Forty
Judy Preddy Draper, Division Forty-One
Sandra Farragut-Hemphill, Division Forty-Two
Douglas Beach, Division Forty-Three ***

Commissioners:

Mary Fox, Traffic ****
Peggy McCartney, Traffic
Kristine Kerr, Family Court Division
Terry W. Wiese, Family Court Division
Victoria Mullen McKee, Family Court Division
Phillip Jones, Family Court Division
Robert C. Weis, Probate Division
Kimberly Coon, Probate Division

Paul Fox, Director of Judicial Administration

Joan M. Gilmer, Circuit Clerk

William R. Seely, Family Court Administrator

- * Judge Jamison replaced Judge Kenneth M. Romines in October 2005. Judge Romines was appointed to the Court of Appeals in June 2005.
- ** Judge Hood replaced Judge Joseph A. Goeke, III, in November 2005. Judge Goeke retired in October 2005.
- *** Judge Beach replaced Judge Michael T. Jamison in November 2005. Judge Jamison was appointed to Division Ten in September 2005.
- **** Mary Greaves replaced Mary Fox in March 2006.

An organization chart follows:

TWENTY-FIRST JUDICIAL CIRCUIT
ST. LOUIS COUNTY, MISSOURI
ORGANIZATION CHART
DECEMBER 31, 2005

